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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/745,983	12/22/2000	Jim Mao	005043.P009	1397

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EXAMINER

SAX, STEVEN PAUL

ART UNIT	PAPER NUMBER
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2174

DATE MAILED: 07/01/2004

11

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/745,983

Applicant(s)

MAO, JIM

Examiner

Steven P Sax

Art Unit

2174

*JS*

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 29 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>8</u> . | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. This application has been examined. The RCE and amendment filed 4/29/04 has been entered.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-3, 6, 11-13, 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Iwamura (5883621).

4. Regarding claim 1, Iwamura shows selecting by a user a connection source and destination from a graphical user interface that displays a topology of a network (Figures 6-7, 12, column 2 lines 1-8, column 3 lines 7-20), executing a routing algorithm to determine a path through the network from a plurality of possible paths having as endpoints the connection source and destination (Figure 12, column 8 lines 17-35 and 56-65), provisioning the connection within the network that corresponds to the path (Figures 6-7, column 6-18).

5. Regarding claim 2, a distributed algorithm is executed at a node (column 5 lines 5-25, column 6 lines 23-33).
6. Regarding claim 3, the topology information is sent from a first node to a second node (column 5 lines 5-25).
7. Regarding claim 6, the routing algorithm is executed at a network control management system (column 4 lines 15-30).
8. Claims 11-13 and 16 show the same features as above and are rejected for the same reasons.
9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
10. Claims 4-5, 7-10, 14-15, and 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Iwamura (5883621) and Rakoshitz et al (6578077).

11. Regarding claim 4, in addition to the aforementioned, Iwamura does not go into the details of the bandwidth resource information being sent from one node to another, but does mention routing information from one node to another for efficient monitoring of a network. Furthermore, Rakoshitz et al show sending bandwidth information for efficient monitoring of a network (column 4 lines 57-68, Figure 3, column 10 lines 15-35, Figure 9A, column 16 lines 44-60). It would have been obvious to a person with ordinary skill in the art to include bandwidth information in the information being sent from one node to another in Iwamura, because it would allow efficient monitoring of a network.

12. Regarding claim 5, in addition to the aforementioned, Iwamura does not go into the details of the Quality of Service information being sent from one node to another, but does mention routing information from one node to another for efficient monitoring of a network. Furthermore, Rakoshitz et al show sending Quality of Service information for efficient monitoring of a network (column 4 lines 40-55, Figures 9A-15, column 16 lines 44-59, column 17 lines 8-33). It would have been obvious to a person with ordinary skill in the art to include Quality of Service information in the information being sent from one node to another in Iwamura, because it would allow efficient monitoring of a network.

13. Regarding claims 7-8, a graphical user interface is used to select the bandwidth and Quality of Service parameters (Rakoshitz et al see Figures 9-11 for example).

14. Regarding claims 9-10, the Quality of Service parameters include end to end transit delay (Rakoshitz et al column 5 lines 3-16) and jitter (Rakoshitz et al column 5 lines 17-25).

15. Claims 14-15 and 17-20 show the same features as claims 4-5 and 7-10 and are rejected for the same reasons as those claims.

16. Applicant's arguments filed have been fully considered but they are not persuasive. The algorithm to determine the network connections of Iwamura is in fact a routing algorithm. Once the topology is determined, there still are a plurality of paths, and one of these is determined. The claims do not state for example that a specific path, such as the path of minimal connections, is chosen. There simply are a plurality of paths, perhaps having different source and destination endpoints, and one of these paths is determined. The time/state of occurrence of the system is perhaps inherently being assumed, but this needs to be brought out in the claims. Examiner had thought a different amendment was to be filed, and applicant is invited to contact Examiner at 703-305-9582 to discuss claim interpretation and possible modifications.

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven P Sax whose telephone number is 703-305-9582. The examiner can normally be reached on M-F 8:30AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kristine Kincaid can be reached on 703-308-0640. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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STEVEN SAX  
PRIMARY EXAMINER